

June 3, 2022

Via ECF

The Honorable Stewart D. Aaron
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *In re ACTOS Antitrust Litig.* (1:13-cv-09244-RA-SDA)

Dear Magistrate Judge Aaron:

We write on behalf of all parties to the above-captioned litigation in accordance with the Court's April 15, 2022 Order directing the parties to file a joint letter regarding the status of discovery, (ECF No. 374).

Since our last status letter, the parties have continued to make document productions. The parties continue to have discussions regarding the sufficiency of the document production by both sides and Defendants' response to Plaintiffs' interrogatories.

On April 22, Defendants stated in a letter to Plaintiffs that they intend to waive privilege as to "[t]he applicability of the pre-2003 regulations governing the submission of patent information to FDA (21 C.F.R. § 314.53) for U.S. Patent Nos. 5,965,584 and 6,329,404 in connection with ACTOS, and Takeda's compliance with those pre-2003 regulations." Plaintiffs have concerns regarding the appropriate scope of the waiver as described in Takeda's April 22 letter and intend to meet and confer with Takeda on the proper scope of the waiver.

On May 20, Defendants served their second categorical privilege log and produced additional documents. While Plaintiffs' review of the categorical privilege logs is ongoing, deficiencies have been identified, which will be discussed with Defendants.

Plaintiffs have served additional third-party subpoenas, and the parties continue to pursue third-party discovery pursuant to Federal Rule of Civil Procedure 45.

Unless the Court desires otherwise, the parties propose to submit a further report on the status of discovery by July 15, 2022. We appreciate Your Honor's attention to this matter.

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Sincerely,

/s/ Steve D. Shadowen

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/s/ Thomas M. Sobol

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/s/ R. Brendan Fee

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cc: Counsel of record (via ECF)